

Reciprocity

Includes information for:

- Wisconsin residents who work in -
 - Illinois,
 - Indiana,
 - Kentucky,
 - Michigan, or
 - Minnesota
- Residents of the above states who work in Wisconsin

I. INTRODUCTION

Individuals who are employed outside their state of domicile (often referred to as legal residence) may be subject to the income tax laws of two states, that is, their state of domicile and the state in which they are employed.

Two methods exist to prevent the same income from being subject to tax by more than one state. These methods are (1) reciprocity and (2) credit for tax paid to another state.

This publication discusses reciprocity and its effect on residents and nonresidents of Wisconsin. Information on the credit for tax paid to another state can be found in Publication 125, *Credit for Tax Paid to Another State*.

II. WHAT IS RECIPROCITY?

Wisconsin has reciprocity agreements with five states: Illinois, Indiana, Kentucky, Michigan, and Minnesota. As a result of these agreements,

- (1) Wisconsin generally will not tax the personal service income (e.g., salaries, wages, commissions, and fees earned by an employee) of individuals who are domiciled in these states and who are employed in Wisconsin (see Part III for exception), and
- (2) Illinois, Indiana, Kentucky, Michigan, and Minnesota generally will not tax the personal service income of individuals who are domiciled in Wisconsin and who are employed in these states (see Part III for exceptions).

(Caution: Personal service income may mean something different in each state. See Part III for further information.)

Example: An individual is domiciled in Wisconsin. He commutes daily to his job in Minnesota. Because his wages are subject to reciprocity, the individual does not have to file a Minnesota income tax return to report the income earned in Minnesota. He must include the income earned in Minnesota on his Wisconsin income tax return.

III. WHAT INCOME IS SUBJECT TO RECIPROCITY?

Reciprocity applies only to personal service income. It does not apply to other types of income, such as gains on the sale of property, rental income, lottery winnings, etc.

The reciprocity agreements with the five states specify the type of personal service income that is subject to reciprocity. Following are descriptions of the personal service income subject to the reciprocity agreement with each of the five states.

Illinois Reciprocity with Illinois is limited to wages, salaries, commissions, and any other remuneration paid to employees for personal services. It does not apply to income from self-employment.

Example: An individual, who is domiciled in Illinois, is self-employed as an accountant. She commutes daily to her office located in Wisconsin. All self-employment income is earned in Wisconsin. Because reciprocity does not apply to income from self-employment, the individual must file a Wisconsin income tax return to report the self-employment income.

Reciprocity also does not apply to compensation paid to an individual who, at the time of payment, is both a resident of Illinois for Illinois tax purposes and domiciled in Wisconsin. All income of this individual is taxable by Wisconsin. This individual must also file an Illinois income tax return.

Note: Illinois law defines a resident for income tax purposes as an individual (1) who is in Illinois for other than a temporary or transitory purpose during the taxable year, or (2) who is domiciled in Illinois but is absent from Illinois for a temporary or transitory purpose during the taxable year. Because of this definition, an individual may be domiciled in Wisconsin and be a resident of Illinois at the same time. Also, an individual may be domiciled in Illinois but not be a resident of Illinois for Illinois income tax purposes.

Example: An individual is domiciled in Wisconsin and takes a job in Illinois. The individual does not intend to give up his or her Wisconsin domicile, but instead intends to return to Wisconsin in two to three years once the job in Illinois is completed. Assume that Illinois considers the individual's stay

in Illinois as other than temporary or transitory, and therefore, the individual is a resident of Illinois for Illinois income tax purposes. This individual is both a resident of Illinois and a domiciliary of Wisconsin, and would be required to file both Illinois and Wisconsin income tax returns. (In this case, a credit would be allowed on the Wisconsin income tax return for income tax paid to Illinois.)

Reciprocity also does not apply where an individual who is domiciled in Illinois is not considered a resident of Illinois for Illinois income tax purposes. This individual is subject to Wisconsin income tax on income earned in Wisconsin. Because of the Illinois definition of "resident" (see Note above), this individual would not be subject to Illinois income tax on the income earned in Wisconsin.

Individuals domiciled in Wisconsin who have questions about whether they are also considered Illinois residents for income tax purposes should contact the Illinois Department of Revenue, PO Box 19044, Springfield IL 62794-9044, phone 1-800-732-8866, or e-mail the department via their web site at www.revenue.state.il.us/AboutIdor/emailquestions.htm.

Indiana Reciprocity with Indiana is limited to wages, salaries, tips, and commissions received as an employee.

Reciprocity does not apply to income earned in Indiana by an individual who is domiciled in Wisconsin if the individual is considered a resident of Indiana. Individuals domiciled in Wisconsin who have questions about whether they are considered residents of Indiana for income tax purposes should contact the Indiana Department of Revenue, 100 North Senate Avenue, Indianapolis IN 46204, phone (317) 232-2240, or e-mail the department via their web site at www.in.gov/dor/contact/email.html.

Note: Individuals who earn income that is not taxable to the State of Indiana because of the reciprocity agreement may still be subject to an Indiana county income tax on that income.

Kentucky Reciprocity with Kentucky is limited to wages, salaries, and commissions received as an employee.

Reciprocity does not apply to income earned in Kentucky by an individual who is domiciled in Wisconsin if the individual is considered a resident of Kentucky for income tax purposes. An individual is considered a resident of Kentucky if he or she maintains a place of abode in Kentucky and spends more than 183 days in Kentucky during the taxable year. Individuals domiciled in Wisconsin who have questions about whether they are considered residents of Kentucky for income tax purposes should contact the Kentucky Department of Revenue, 200 Fair Oaks Lane, PO Box 657, Frankfort KY 40620-0657, phone (502) 564-4581, or e-mail KRC.WEBResponseIndividualIncome@ky.gov.

Michigan Reciprocity with Michigan is limited to compensation for personal services, including wages, salaries, and commissions received as an employee.

Individuals domiciled in Wisconsin who have questions as to whether reciprocity applies or if income is subject to Michigan tax, should contact the Michigan Department of Treasury, Lansing MI 48922, phone 1-800-827-4000, or e-mail the department at treasIndTax@michigan.gov.

Minnesota Reciprocity with Minnesota is limited to income from personal services, including wages, salaries, tips, fees, commissions, bonuses, or similar earnings, provided the individual personally renders the services. The agreement applies for both employed and self-employed individuals.

Reciprocity does not apply if the personal service income is earned as part of a business operated by an individual and which has employees who do more than incidental duties for the business, or where there is a sale or delivery of goods that is more than an incidental part of the business. A partner's salary from a partnership where the selling of goods or services of the employees is more than incidental is subject to reciprocity, but the partnership profits are not.

Example: An individual who is domiciled in Minnesota is self-employed and operates a retail clothing store in Wisconsin. Because the sale of goods is more than an incidental part of this business, the self-employment income is not subject to reciprocity. The individual must file a Wisconsin income tax return to report the self-employment income.

Individuals domiciled in Wisconsin who have questions as to whether the reciprocity agreement applies in their situation or if income is subject to Minnesota tax should contact the Minnesota Department of Revenue, Mail Station 5510, St. Paul MN 55146-5510, phone (651) 296-3781, or e-mail indinctax@state.mn.us.

IV. PROCEDURES FOR NONRESIDENTS OF WISCONSIN

How to Prevent Withholding Individuals domiciled in Illinois, Indiana, Kentucky, or Michigan and employed in Wisconsin should file Form W-220, *Nonresident Employee's Withholding Reciprocity Declaration*, with their Wisconsin employers to stop the withholding of Wisconsin income tax from their wages subject to reciprocity. This exemption from withholding will remain in effect as long as the individual is subject to reciprocity.

Individuals domiciled in Minnesota and employed in Wisconsin should file Form W-222, *Statement of Minnesota Residency*, with their Wisconsin employers to stop the withholding of Wisconsin income tax from their wages subject to reciprocity. To continue the exemption from year-to-year, a new Form W-222 must be filed by January 31 of each year.

Filing a Wisconsin Income Tax Return A non-resident or part-year resident of Wisconsin must file a Wisconsin income tax return if his or her gross income from Wisconsin sources is \$2,000 or more. Gross income does not include income that is not taxable to Wisconsin because of reciprocity.

Therefore, if you are domiciled in Illinois, Indiana, Kentucky, Michigan, or Minnesota for the taxable year and your only income from Wisconsin sources is personal service income that is subject to reciprocity, you are not required to file a Wisconsin income tax return for such taxable year. However, if Wisconsin income tax was withheld from your wages, you must file a Wisconsin return (Form 1NPR) to get a refund of the withheld tax.

V. PROCEDURES FOR WISCONSIN RESIDENTS

Filing a Wisconsin Income Tax Return If, while you are domiciled in Wisconsin, you earn personal service income that is subject to reciprocity, you

must report such income on your Wisconsin income tax return (Form 1, 1A, or WI-Z for a full-year Wisconsin resident or Form 1NPR for a part-year resident).

Individuals domiciled in Wisconsin who earn income in another state that is subject to reciprocity (that is, the income is not taxable by that state) may not claim a credit on their Wisconsin income tax returns for tax paid to the other state on that income.

If you earn personal service income in Illinois, Indiana, Kentucky, Michigan, or Minnesota and it is taxable by that state, you may claim a credit on your Wisconsin income tax return for net income tax paid to that state. (**Note:** You may not claim credit for other taxes paid such as city tax or county tax.)

Other State's Income Tax Return You are not required to report income subject to reciprocity on a tax return for the reciprocal state (that is, Illinois, Indiana, Kentucky, Michigan, or Minnesota). Therefore, if your only income from a reciprocal state is personal service income that is subject to reciprocity, you are not required to file an income tax return with such reciprocal state. (**Exception:** You must file an Indiana income tax return if the personal service income is subject to an Indiana county tax.) However, if your employer withheld income tax for such reciprocal state from your wages, you will have to file an income tax return with that state to obtain a refund of tax withheld.

Withholding and Estimated Tax Payments You may request your employer to stop withholding income tax for the reciprocal state. Contact your employer or the reciprocal state's department of revenue to obtain the required form.

You may also request your employer to withhold Wisconsin income tax from your wages. However, an employer outside Wisconsin may not be required to withhold Wisconsin tax. If your employer does not withhold Wisconsin income tax, you may be required to make estimated tax payments.

Estimated tax payments are generally required if you expect your Wisconsin income tax return to show a balance due of \$200 or more. You may be charged underpayment interest if the required estimated tax payments are not made. Estimated tax

payments must be submitted with Form 1-ES, *Wisconsin Estimated Tax Voucher*.

VI. ADDITIONAL INFORMATION

If you have additional questions or need copies of Wisconsin forms or publications, you may contact any Wisconsin Department of Revenue office or call, e-mail, or write to:

for additional information:

Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

Telephone: (608) 266-2772

E-mail: income@dor.state.wi.us

to request forms or publications:

Forms Request Office
Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

Telephone: (608) 266-1961 (Madison)
(414) 227-4440 (Milwaukee)

Web site: www.dor.state.wi.us/html/formsreg.html

By fax: call (608) 261-6229 from your fax telephone

Internet web site - www.dor.state.wi.us

CAUTION

The information in this publication reflects the interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of December 1, 2005. Laws enacted after this date, new administrative rules, and court decisions, and new or revised reciprocity agreements may change the interpretations in this publication.